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Cronan O'Connell
Vice President-Federal Regulatory

EX PARTE

September 27, 2004

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, DC 20554

Re: In the Matter of Vonage Petition for Declaratory Ruling, WC Docket 03-211

Dear Ms. Dortch:

The attached ex parte letter dated September 21, 2004, *In the Matter of IP-Enabled Services*, WC Docket No. 04-36, is being submitted in the above-captioned proceeding at the request of Terri Natoli of Wireline Competition Bureau.

In accordance with Commission Rule 47 C.F.R. § 1.49(f), this *ex parte* letter is being filed electronically for inclusion in the public record of the above-referenced proceeding pursuant to Commission Rule 47 C.F.R. § 1.1206(b)(2).

Sincerely,
/s/ Cronan O'Connell

cc:

Thomas Navin (thomas.navin@fcc.gov)
Julie Veach (julie.veach@fcc.gov)
Terri Natoli (terri.natoli@fcc.gov)
Michael Goldstein (michael.goldstein@fcc.gov)
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Darryl Copper (darryl.cooper@fcc.gov)
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Chris Canter (chris.canter@fcc.gov)

Attachment



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EX PARTE

September 22, 2004

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, DC 20554

Re: In the Matter of IP-Enabled Services, WC Docket No. 04-36

Dear Ms. Dortch:

On September 21, 2004, Cronan O'Connell, Robert McKenna and Joe Glynn in person, and Wendy Moser, Mary LaFave and Molly Martin, via telephone conference bridge, all representing Qwest Communications International Inc. ("Qwest"), met with the following members of the Wireline Competition Bureau: Thomas Navin, Julie Veach, Terri Natoli, Michael Goldstein, Christi Shewman, Russell Hanser, Darryl Copper, Christina Langlois and Chris Canter, to discuss the IP-Enabled Services Proceeding and the VoIP (Voice over Internet Protocol) application in particular. During the discussions Qwest reviewed its VoIP architecture and emphasized the importance of expeditious Commission action to clarify that VoIP is an interstate information service. Qwest's discussion was consistent with its comments and replies on the record. The attached documents reflect Qwest's information presented during the discussions.

In accordance with Commission Rule 47 C.F.R. § 1.49(f), this *ex parte* letter is being filed electronically for inclusion in the public record of the above-referenced proceeding pursuant to Commission Rule 47 C.F.R. § 1.1206(b)(2).

Sincerely,
/s/ Cronan O'Connell

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Thomas Navin (thomas.navin@fcc.gov)
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Attachments



Spirit of Service

**IP-Enabled Services –
Voice over Internet Protocol Application
WC 04-36**

September 21, 2004

IP-Enabled Services

A VoIP Discussion

- ❏ **Definition**
- ❏ **Architecture**
- ❏ **Regulatory jurisdiction and classification**

IP-Enabled Services Definition

- ❑ **An IP-Enabled service is defined as:**
 - **An Interstate Information Service**
 - **Originates in Internet Protocol via CPE (a SIP phone or IAD)**
 - **Originates over a broadband connection**
 - **Includes applications such as VoIP, voice messaging, advanced call control, and web browser-based dashboard for subscriber management of call handling and messages**
 - **Requires a net protocol conversion when terminating calls to the PSTN**
 - **Requires the customer to have an IP address and a unique 10-digit telephone number**
- ❑ **The FCC should immediately adopt a definition of IP-Enabled services, of which VoIP is just one of many applications, that clarifies that it is subject to the FCC's exclusive jurisdiction as an Interstate Information Service in order to eliminate uncertainty in the ongoing deployment of IP-Enabled Services**

Classification:

The VoIP Application clearly fits under the Definition of an Information Service

- ❑ **In its Computer Inquiry decisions and other proceedings, the FCC has continuously distinguished between basic and enhanced services**
- ❑ **In the Telecom Act of 1996, there is a distinct definition between a telecom service and an information service**
- ❑ **IP-Enabled services inextricably combine information processing, conversion and retrieval in a single offering**
- ❑ **The VoIP application can not be severed from the other IP applications**

Qwest's IP-Enabled services, including VoIP, which originates in IP over a broadband connection, is clearly an information service

Classification:

The VoIP Application clearly fits under the Definition of an Information Service (cont'd)

- ❑ A provider of VoIP is an information/enhanced service provider and is covered by the FCC's ESP exemption**
 - Information service providers are deemed “end users” for purposes of the FCC's federal access charge regime and may use local business/retail offerings to terminate and originate their services within a local calling area**
 - ISPs are treated, for access charge purposes, like any other end user. The ISP POP is treated as an end user premise. That is the extent of the “ESP exemption”**
 - This “end user” status for an ISP POP does not extend beyond the limited applicability to access charges**

Jurisdiction: All IP-Enabled Services, Including the VoIP Application, Must Be Subject to Exclusive Federal Jurisdiction

- ❑ Three predicates for exclusive federal jurisdiction:**
 - Section 230(b)(2): the internet and other interactive computer services shall be unfettered by federal regulation**
 - Sections 2(a) and 201(a): the FCC has authority to enforce the provisions of The Act in §230(b)(2)**
 - General preemption authority: the internet is interstate**
- ❑ Standard 2(b) analysis is superceded by 230(b)(2)**
- ❑ Preemption is critical for internet development**
- ❑ Preemption must be uncategorical and comprehensive**
- ❑ Preemption decision must be immediate**

Business Implications of Inaction

- ❑ **Up to 51 Jurisdictions with 51 different rules and regulations**
 - **Potential for any one of these 51 jurisdictions to shut down a VoIP providers national operations**
 - MN – intends to apply both economic and rate regulation
 - NY – Requires certificate and tariffs
 - NE – intends to enforce certification and rate filing requirements. Also, NE open a proceeding to determine whether to apply intrastate USF
 - UT – intends to require provisioning intervals among other metrics as well as contribute to the “Poison Control Center”
- ❑ **Classification**
 - **Industry proceeding on assumption that VoIP application is an information service**
 - The network configuration reflects an interstate, information service
 - Qwest (QC) has tariffed a PRI terminating service allowing ISPs to terminate traffic, within a local calling area, over PRIs
 - Qwest (QCC) is entering into contracts to purchase PRIs for terminating VoIP traffic

**FCC should expeditiously determine that VoIP, an IP-Enabled application,
is an Interstate, Information service**

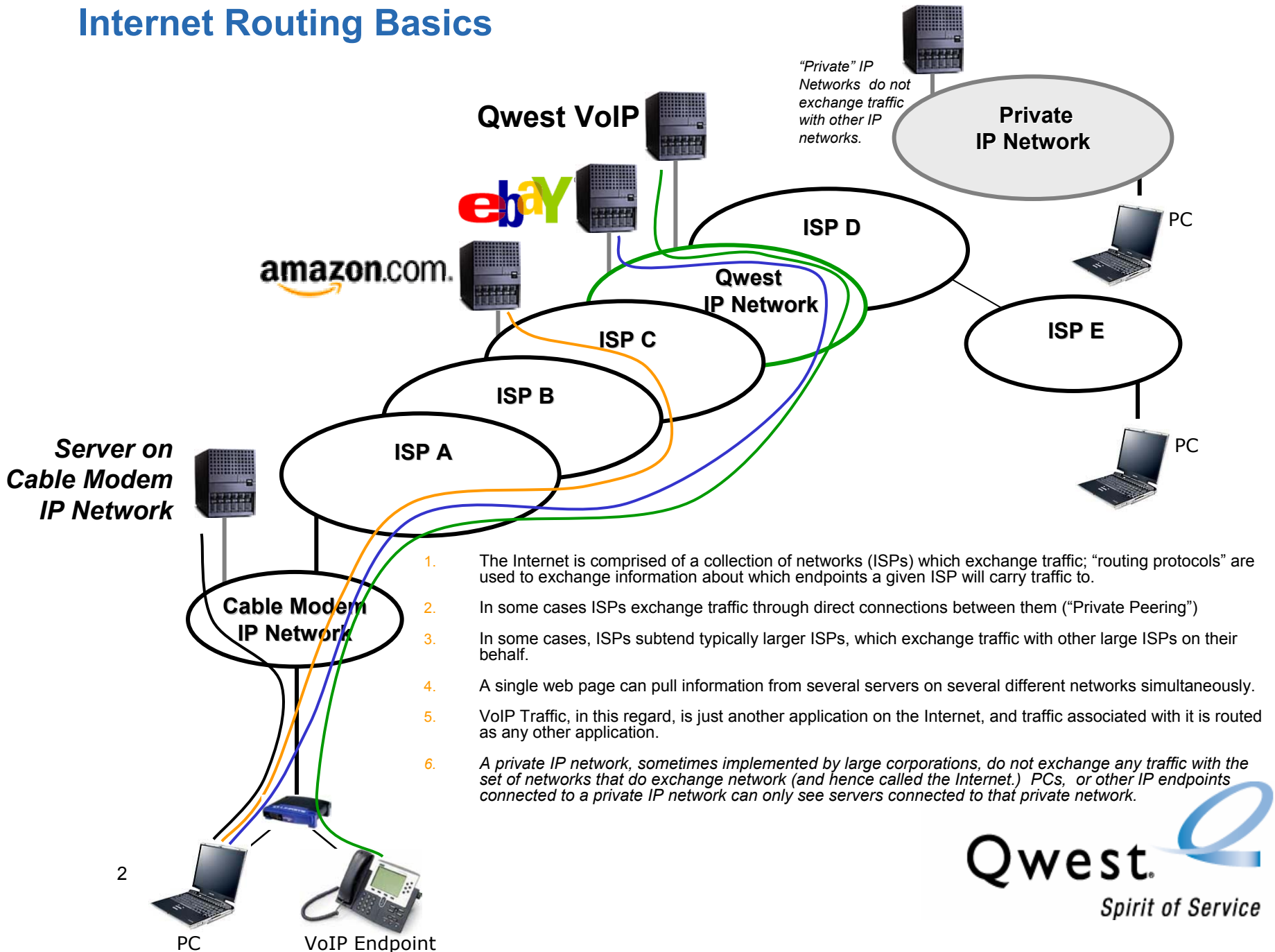


**IP-Enabled Services –
Voice over Internet Protocol Application
WC 04-36**

Network Overview

September 2004

Internet Routing Basics

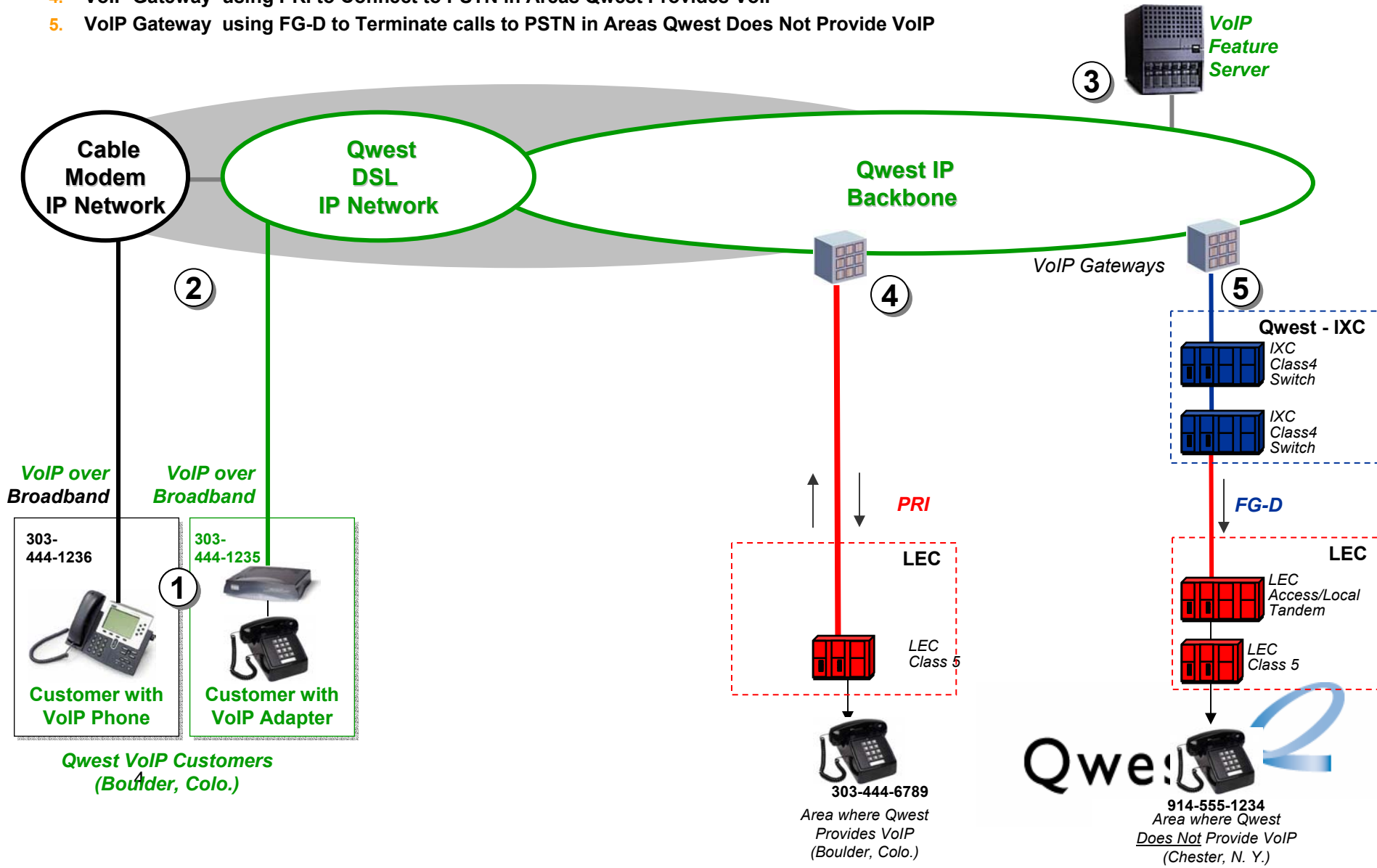


Call Flows: Local & LD



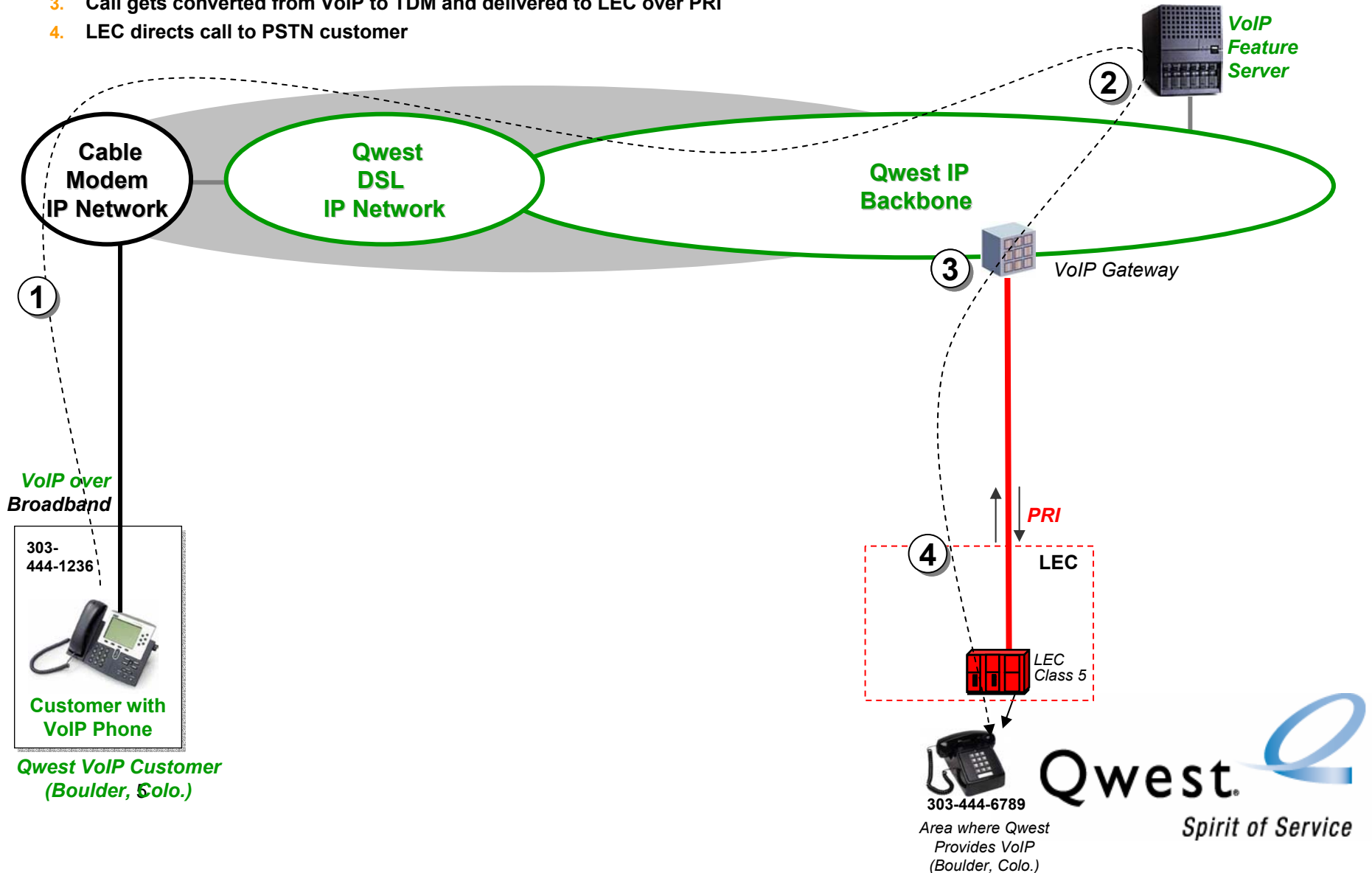
VoIP Network Components

1. VoIP Phone or VoIP Adapter at Customer Location
2. Broadband Access (e.g. IP over: DSL, T1, or Cable modem)
3. VoIP Feature Server in Hosting Center on Qwest IP Backbone (Provides "Class 5 Functionality")
4. VoIP Gateway using PRI to Connect to PSTN in Areas Qwest Provides VoIP
5. VoIP Gateway using FG-D to Terminate calls to PSTN in Areas Qwest Does Not Provide VoIP



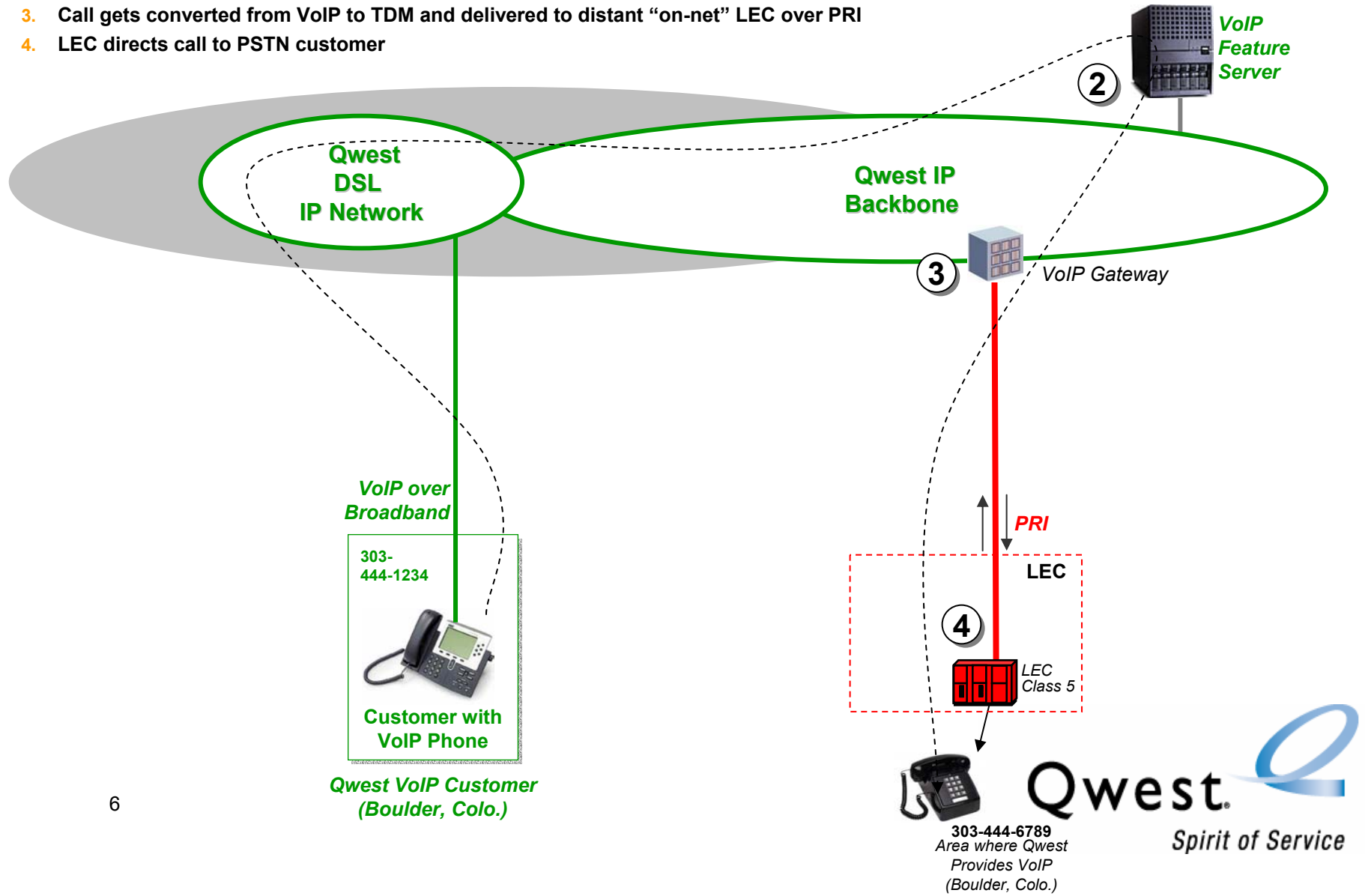
Scenario 1: VoIP Call to Local PSTN

1. Call leaves customer location in VoIP format on Broadband connection
2. VoIP Feature Server in Qwest Hosting Center on IP Backbone directs call to appropriate VoIP Gateway
3. Call gets converted from VoIP to TDM and delivered to LEC over PRI
4. LEC directs call to PSTN customer



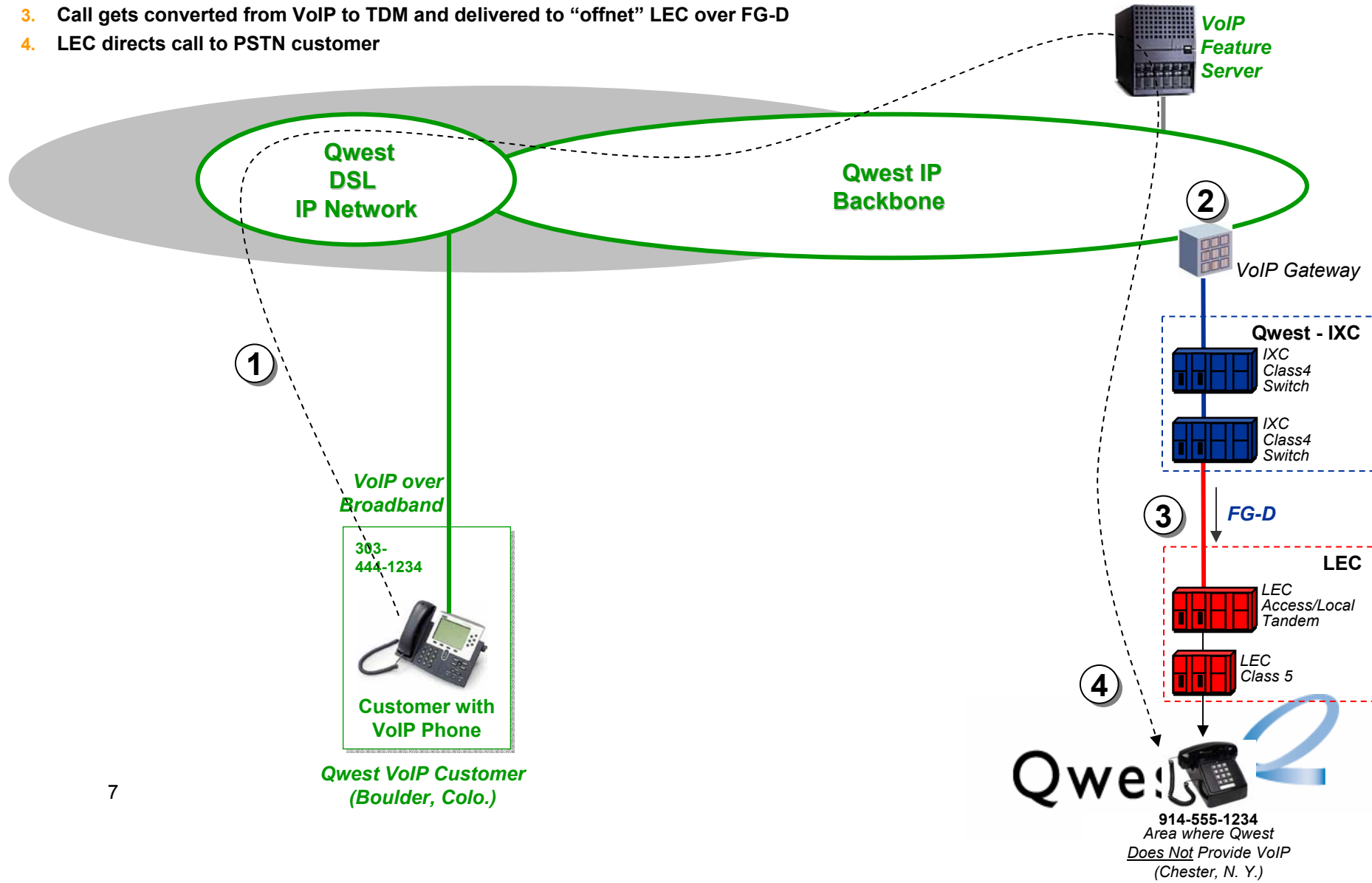
Scenario 2: VoIP Call to On-Net LD PSTN

1. Call leaves customer location in VoIP format on Broadband connection
2. VoIP Feature Server in Qwest Hosting Center on IP Backbone directs call to appropriate VoIP Gateway
3. Call gets converted from VoIP to TDM and delivered to distant "on-net" LEC over PRI
4. LEC directs call to PSTN customer



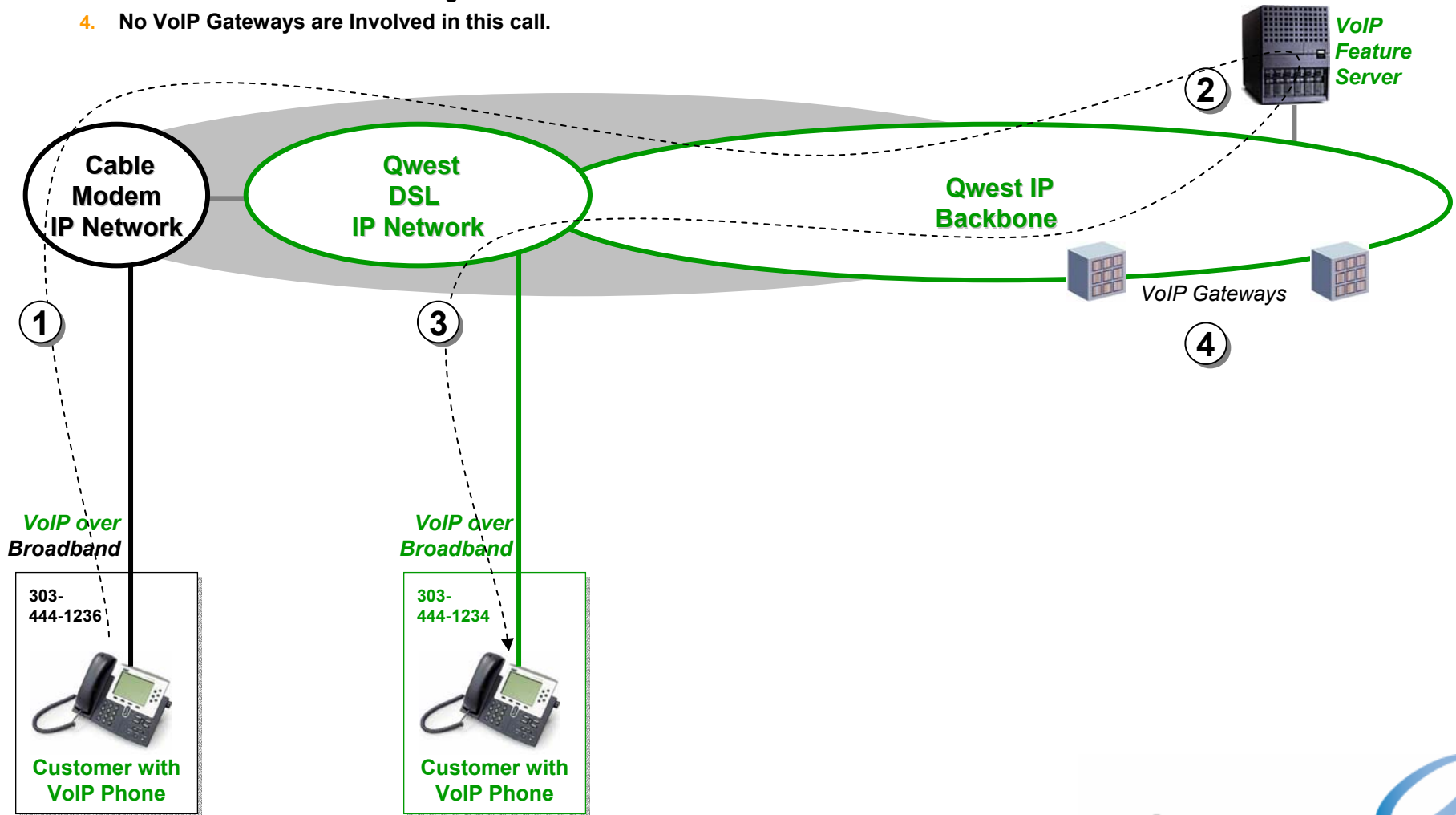
Scenario 3: VoIP Call to Offnet LD PSTN

1. Call leaves customer location in VoIP format on Broadband connection
2. VoIP Feature Server in Qwest Hosting Center on IP Backbone directs call to appropriate VoIP Gateway
3. Call gets converted from VoIP to TDM and delivered to "offnet" LEC over FG-D
4. LEC directs call to PSTN customer



Scenario 4: VoIP-to-VoIP Call

1. Call leaves customer location in VoIP format on Broadband connection
2. VoIP Feature Server in Qwest Hosting Center on IP Backbone directs call to appropriate VoIP Endpoint
3. Call remains in VoIP format and gets delivered to VoIP destination over their Broadband IP Connection
4. No VoIP Gateways are Involved in this call.



Qwest VoIP Customers
(Boulder, Colo.)